

Department of Justice

§ 79.51

certified “B” readers, classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the “ILO”), or subsequent revisions;

(B) High-resolution computed tomography scans (commonly known as “HRCT scans”), including computer-assisted tomography scans (commonly known as “CAT scans”), magnetic resonance imaging scans (commonly known as “MRI scans”), and positron emission tomography scans (commonly known as “PET scans”), and interpretive reports of such scans;

(C) Pathology reports of tissue biopsies; or

(D) Pulmonary function tests indicating restrictive lung function and consisting of three reproducible time/volume tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1994 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to the lower limit of normal for an individual of the claimant’s age, sex, height, and ethnicity as set forth in the tables in appendix A to this part.

(e) The Assistant Director shall treat any documentation described in paragraph (d)(3)(i)(B) or paragraph (d)(3)(ii)(A) of this section as conclusive evidence of the claimant’s nonmalignant respiratory disease; provided, however, that the Program may subject such documentation to a fair and random audit to guarantee its authenticity and reliability for purposes of treating it as conclusive evidence; and provided further that, in order to be treated as conclusive evidence, a written diagnosis described in paragraph (d)(3)(i)(B) must be by a physician who is employed by the Indian Health Service or the Department of Veterans Affairs or who is board certified (as described in § 79.41(p)), and who must have a documented, ongoing physician-patient relationship with the claimant. Notwithstanding the conclusive effect given to certain evidence, nothing in this paragraph shall be construed as relieving a living claimant of the obligation to provide the Program

with the forms of documentation required under paragraph (d)(3).

Subpart F—Eligibility Criteria for Claims by Uranium Millers

§ 79.50 Scope of subpart.

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to millers, *i.e.*, uranium mill workers, and the nature of evidence that will be accepted as proof that a claimant satisfies such eligibility criteria. Section 5 of the Act provides for a payment of \$100,000 to “millers” who contracted primary lung cancer, one of a limited number of nonmalignant respiratory diseases, primary renal cancer, or chronic renal disease, following employment for at least one year as a uranium mill worker in specified states during the period beginning January 1, 1942, and ending December 31, 1971.

§ 79.51 Definitions.

(a) *Chronic renal disease* means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) *Cor pulmonale* means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(c) *Designated time period* means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) *Employment for at least one year* means employment for a total of at least one year (12 consecutive or cumulative months).

(e) *Fibrosis of the lung or pulmonary fibrosis* means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(f) *Kidney tubal (tubular) tissue injury* means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(g) *Miller or uranium mill worker* means a person who operated or otherwise worked in a uranium mill.

(h) *National Institute for Occupational Safety and Health (NIOSH) certified “B” reader* means a physician who is certified as such by NIOSH. A list of certified “B” readers is available from the

Radiation Exposure Compensation Program upon request.

(i) *Nephritis* means an inflammatory process of the kidneys resulting in chronic renal dysfunction.

(j) *Nonmalignant respiratory disease* means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis.

(k) *Pneumoconiosis* means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For purposes of this subpart, the claimant's exposure to the particulate matter that led to the disease must have occurred during employment in a uranium mill.

(l) *Primary lung cancer* means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(m) *Readily available documentation* means documents in the possession, custody, or control of the claimant or an immediate family member.

(n) *Primary renal cancer* means any physiological condition of the kidneys that is recognized under that name or nomenclature by the National Cancer Institute.

(o) *Silicosis* means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint, or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(p) *Specified state* means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(q) *Uranium mill* means any milling operation involving the processing of uranium ore or vanadium-uranium ore,

including carbonate plants and acid leach plants. The term applies to ore-buying stations where ore was weighed and sampled prior to delivery to a mill for processing; “upgrader” or “concentrator” facilities located at the mill or at a remote location where uranium or vanadium-uranium ore was processed prior to delivery to a mill; and pilot plants where uranium ore or vanadium-uranium ore was processed.

(r) *Uranium mine* means any underground excavation, including “dog holes,” as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(s) *Written diagnosis by a physician* means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic, or pathologic study of physiologic and functional tests, secretions, discharges, blood, or tissue. For purposes of satisfying the requirement of a “written diagnosis by a physician” for living claimants specified in § 79.55, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An “ongoing physician-patient relationship” can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment. “Board certification” requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.